Clayman &
Rosenberg LLP

March 16, 2016

By ECF

Hon. Colleen McMahon
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *United States v. Mirilashvili*, S2 14 Cr. 810 (CM)

Dear Judge McMahon:

        We write on behalf of defendant Moshe Mirilashvili to offer our response to the first jury note issued by the jury during deliberations earlier today. We submit that the answer to this note should be that there are no transcript references in Abraham Correa's testimony responsive to the jury's question. The jury specifically asked for a "copy of the transcript by Abraham Correa referring to Correa and Ray Williams having *worked with* Doctor Moshe in the Bronx before moving to Manhattan." (Jury Note 1, 3.16.16) (emphasis added). The evidence and Mr. Correa's testimony both indicate that Mr. Correa did not "work with" Dr. Mirilashvili until he was hired as a security guard in Manhattan, and there is no testimony that Mr. Williams ever worked with the doctor. It is error for the Court to adopt the government's theory of the case, *i.e.,* that Dr. Mirilashvili was a co-conspirator with Messrs. Williams and Correa and, therefore, conclude that the jury is asking for all testimony from the government's cooperating witness Correa for alleged acts done in furtherance of the charged conspiracy before the doctor moved to Manhattan, because the government believes they "worked with" each other within a conspiracy. This is not what the plain language of the jury's question asks for, and it is substantially prejudicial to Dr. Mirilashvili for the Court to adopt the government's theory of the case in interpreting the jury's question.

        However, because the Court already has indicated that it intends to overrule this objection by Dr. Mirilashvili, we propose the following transcript references without waiving our objection. The government has proposed transcript references relating to the patient visits by Correa to Dr. Mirilashvili's office in the Bronx at Rampin Medical Associates on September 6 and October 5, 2012. We have found additional references in Correa's testimony relating to these visits and ask the Court to add them to the set of transcripts it intends to produce to the jury tomorrow. If the Court accepts the government's broad view of the jury's question to encompass all patient-related activities

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in the Bronx, we respectfully submit that the complete transcript references to these visits, including the cross-examination of Correa on these visits be included.

The following is the government's proposed references and the defense objections and additions:

<div align="center">Testimony from March 7, 2016</div>

Gov. proposes: Tr. 322:6 – 330:9

Defense submits that the ending transcript reference should be at 329:17 (which is last reference to Bronx location).

Gov. proposes: Tr. 333:10 – 335:20

Referring to other patients that Correa directed to Dr. Mirilashvili's office in the Bronx

<div align="center">March 8, 2016 Transcript</div>

Correa's First Patient Visit in Bronx (September 6, 2012):

Gov. proposes: Tr. 426:12 – 431:18 (Correa's first patient visit in Bronx)
Gov. proposes: Tr. 436:6 – 439:1

Defense submits that testimony related to this patient visit should be extended to Tr. 440:15.

Defense proposes: Tr. 442:1 – Tr. 450:7 (cross)
Defense proposes: Tr. 450:23 – Tr. 461:16 (cross)
Defense proposes: Tr. 545:2 – Tr. 545:20 (re-direct)
Defense proposes: Tr. 546:18 – Tr. 547:15 (re-cross)

(All relating to the first patient visit in Bronx)

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Correa's Second Patient Visit in Bronx (Oct. 5, 2012):

Defense proposes: Tr. 461:17 – Tr. 464:17

Defense objects to the government attributions proposed at Tr. 464:18 to Tr. 465:8, which refer to the move to Washington Heights.

Respectfully yours,

/S/HEM

Henry E. Mazurek
Wayne E. Gosnell
Counsel for Dr. Mirilashvili

cc: Edward Diskant
        Brooke Cucinella
        Assistant United States Attorneys (by ECF)